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N. N.

Stamperia dello Stato — Mogadiscio

PARTE PRIMA
ATTI LEGISLATIVI ED AMMINISTRATIVI
FIRST PART
LEGISLATIVE AND ADMINISTRATIVE ACTS

LAW No. 7 of 30 December, 1971.

Prisons Law.

THE PRESIDENT
OF THE SUPREME REVOLUTIONRY COUNCIL

HAVING HEARD the Council of Secretaries;
TAKING NOTE of the approval of the Supreme Revolutionary
Council;

HEREBY PROMULGATES
the following Law:

PART I.

P R E L I M I N A R Y

Article 1

Definitions

In this Law, unless the context otherwise requires:

«*Commandant*» means the Commandant of the Custodial
Corps;

«*Custodial Corps*» means the Organization of the Custodial
Corps;

«*Juvenile prisoners*» means any prisoner under the apparent
age of 18 years;

«*Long term prisoner*» means a prisoner who is sentenced to
imprisonment for a period exceeding one year;

«*Member*» means a member of the Custodial Corps;

«*Prisoner*» means any person, whether convicted or not under
detention in any prison;

«*Prohibited article*» means any article the introduction or re-
moval of which into or out of a prison is prohibited by this Law or
Regulations;

«*Regulations*» means the Regulations made under this Law;

«*Secretary*» means the Secretary of State for Justice, Religion or any Secretary of State who may be made responsible for the administration of prisons;

«*Short term prisoner*» means any prisoner who is sentenced for imprisonment for a period of one year or less;

«*Young prisoner*» means any prisoner of the apparent age of 18 years and over but under 21.

PART II.

ESTABLISHMENT OF PRISONS

Article 2

Declaration of prisons

The Secretary may, by decree, declare any building, enclosure or place or any part thereof to be a prison for the purposes of this Law and may, in like manner, declare that any such prison shall cease to be a prison for the purposes of this Law.

Article 3

Temporary prisons

Where it appears to a Commanding Officer:

- (a) that the number of prisoners in any prison is greater than (a) can be conveniently kept therein and that it is not convenient to transfer the excess number to some other prison;
- (b) that owing to an outbreak of epidemic disease within any prison or for any other reason it is necessary to provide for temporary shelter or safe custody of prisoners;

provisions shall be made as the Commanding Officer of a prison may, with the approval of the Commandant, direct for the shelter and safe custody in temporary prison of so many of the prisoners as cannot be conveniently or safely kept in the prison, and every such temporary prison shall be a prison for the purposes of this Law.

Article 4

Appropriating particular prisons to particular classes of prisoners

Subject to such directions as the Secretary may give, the Commandant, either for effecting the separation of different classes of prisoners or for any other reason, may appropriate particular pri-

sons to particular classes of prisoners, or limit the classes of prisoners who may be imprisoned in particular prisons, and any prisoner of the class for which any prison shall be so appropriated may be lawfully conveyed to such prison and imprisoned therein, notwithstanding that the warrant or order for the imprisonment of such prisoner directs that such prisoner shall be committed to some other prison.

PART III.

ADMINISTRATION OF PRISONS

Article 5

Administration and control of prison vested in Commandant

1. The administration and control of all prisons and other penal institutions shall be vested in the Commandant.
2. The Commandant shall, at least once a year visit and inspect or cause to be visited or inspected all prisons and other penal institutions and shall submit a report on such visits or inspections to the Secretary.
3. Any act which may be done or ordered by the Commandant under the provisions of this Law and Regulations may, with his authority, be done or ordered by the Vice Commandant of the Custodial Corps.

Article 6

Each prison to have an officer, Warrant officer or NCO designated as Commanding Officer

The Commandant shall assign to each prison or other penal institution a Commanding Officer who shall be responsible for the administration of such prison or penal institution:

Provided that in any district where there is a prison but no Commanding Officer has been assigned to be in charge of the same, the Development and District Affairs Officer who is in charge of the district shall be in charge of the prison. Such Development and District Affairs Officer shall, for administration purposes, be subject to the orders and directions of the Commandant, and shall, subject to any express limitations which may be imposed on him by the Commandant in writing, have all the powers conferred by law upon a Commanding Officer.

Article 7

General powers of officer, NCO, Warrant officer

Any act which may be done or ordered by the Commandant under the provisions of this Law and Regulations may, with his authority, be done or ordered by the Commanding Officer in the prison or other penal institution to which he is assigned.

Article 8

General duties of Commanding Officer

A Commanding Officer shall supervise and control all matters in connection with the prison or other penal institution to which he is assigned and shall be responsible for the conduct and treatment of the members and prisoners under his control and care and for the due observance by such members and prisoners of the provisions of this or any other law and of regulations, directions or orders made thereunder.

Article 9

Responsibility of Commandant Officer for stores, etc.

1. A Commanding Officer shall be charged with the responsibility for the safe upkeep of arms, accoutrements, ammunition, clothing and all other public stores, property and foodstuffs issued and delivered for the use of the prisoners and members under his control, and with all public money for which he is accountable, and also with all valuables, money, articles of clothing, and other property entrusted to his keeping as being the property of prisoners, and shall account for the same in case of their being lost or damaged, otherwise than by unavoidable accident, theft, robbery, or actual service, or by being destroyed or otherwise disposed of under paragraph 2 of Article 20.

2. Where any property specified in the preceding paragraph is lost or damaged, the Commanding Officer shall ascertain the cause of the loss or damage, and the individual upon whom the responsibility rests. Should he find any member responsible, he shall deduct the amount found due from the salary of such member in such instalments as he thinks fit and shall report his action to the Commandant, or otherwise, if the act does not constitute a criminal offence.

Article 10

*Power to take photographs and fingerprints
of criminal prisoners*

The Commanding Officer may cause photograph and fingerprints to be taken of any convicted criminal prisoner by any person whom he designates for such purpose.

Article 11

Books etc. to be kept by Commanding Officer

The Commanding Officer shall keep such books, records, documents, journals, etc., as shall be prescribed by Regulations of Standing Orders.

Article 12

Visits by Commanding Officer

The Commanding Officer shall make such visits, daily or otherwise, to the prison or other penal institution and the inmates confined therein, as shall be prescribed by Regulations or Standing Orders.

Article 13

Temporary appointment of members of Military or Police to perform duties of members of Custodial Corps

1. Where in any prison the number of members of the Custodial Corps detailed for duty is insufficient to secure to good management and government therefore, it shall be possible to detail any member of the armed forces to escort the prisoner.

2. Every member of the Military or Police assigned in pursuance of the preceding paragraph shall have all the powers and perform all the duties of a member of the Custodial Corps of the class to which he is assigned and, for the purpose of this Law, shall be deemed to be member of the Custodial Corps during the performances of this task.

3. Where on the removal of any prisoner from any prison or other penal institution the number of members of the Custodial Corps is insufficient to provide escort for such prisoner, any member of the Armed Forces shall be detailed to perform the task and the said member shall thereupon have the same powers and be subject to the same responsibilities, discipline and penalties as member of the Custodial Corps.

Article 14

Functions of Attorney General in relation to prisons and prisoners

1. The Attorney General or his Deputy shall exercise such supervision over prisons and other penal institutions as is necessary and desirable to ensure the proper care and treatment of prisoners in conformity with the laws.

2. The Attorney General or his Deputy shall, at any time he thinks fit, call on and examine the condition of any prison, other penal institution, and prisoners confined therein and shall, if he so desires, question any prisoner and shall record any observations he thinks fit to make in reference to the conditions of the prison, other penal institution or prisoners. The Commanding Officer shall, without undue delay, forward such observations to the Commandant together with his report on the action taken.

PART IV.

TREATMENT AND GENERAL WELFARE OF PRISONERS

Chapter 1 — Admission, Confinement and Custody of Prisoners

Article 15

Admission of prisoners

1. No person shall be admitted into a prison unless accompanied by a court warrant or order of detention by a competent authority.

2. The warrant and order referred to in the preceding paragraph shall be accepted as sufficient authority for admission and detention of a prisoner in a prison.

3. The Commanding Officer shall verify that the prisoner is the person named in the warrant or order and that such warrant or order bears the signature and seal of the proper authority and in all other respects complies with the requirements of law.

4. The Commanding Officer shall not refuse to accept a prisoner on the ground that there is an error or omission on the face of any warrant or order of detention, and he shall take steps, as soon as practicable, to have the error or omission rectified. Until the rectification of the error or omission, the prisoner shall be placed in a reception room.

5. Subject to such conditions as may be prescribed by law, the infant child of a female prisoner may be received into prison with its mother and shall be supplied with clothing and necessaries at public expense.

Article 16

Prisoners in gella custody of Commanding Officer

1. Every prisoner confined in a prison shall be deemed to be in the legal custody of the Commanding Officer.

2. Every prisoner when being taken to or from any prison or whenever he is working outside or is otherwise beyond the limits

of such prison shall be deemed to be in the legal custody of the Commanding Officer of the prison at which the escorting member is serving.

3. All prisoners during the course of removal from one prison to another shall be under escort. The duties of such escort shall be governed by Standing Orders.

Article 17

Prisoners to be kept in accordance with the provisions of warrant or order of detention

Subject to the provisions of this Law, every Commanding Officer shall keep and detain all persons duly committed to his custody by a Court or other competent authority according to the provisions of the warrant or order by which such person has been committed until such person is discharged by due course of law.

Article 18

Production of prisoners before Courts

Whenever the presence of a prisoner is required by any Court or other competent authority such prisoner shall be produced before such Court or authority on receipt of a written order addressed to the Commanding Officer.

Article 19

Search of prisoners

Every prisoner shall be searched on admission and subsequently at such time as the Commanding Officer may think necessary or as the Commandant may direct, by a member of the prisoner's sex, and all prohibited articles taken from such prisoner.

Article 20

Money and other effects of prisoners to be kept in custody of Commanding Officer

1. All money, clothing or other personal effects belonging to a prisoner which he is not allowed to retain while undergoing a term of imprisonment or detention, shall be placed in the custody of the Commanding Officer who shall keep an inventory thereof which shall be signed by the prisoner. All such property shall be returned to such prisoner on his release from the prison:

Provided that the Commanding Officer may, at the request of the prisoner, permit any property to be sent to the prisoners relatives or friends.

2. When the clothes of a prisoner are so old, worn out or filthy as to be useless or incapable of being cleaned or likely to cause an infectious disease, the Commanding Officer shall order their destruction, and in such a case, on the release of such prisoner, clothes which conform to respectability shall be issued to him at public expense.

Chapter 2 — Classification of Prisoners

Article 21

Reception Board

At every prison there shall be, whenever practicable, a Reception Board consisting of the Commanding Officer and such other persons as the Commandant may determine, who shall, as soon as possible after a prisoner's reception in prison, interview him and consider, having due regard to his age, character and previous history, his classification and the arrangements to be made for his training and rehabilitation.

Article 22

Separation of male and female prisoners

1. Male and female prisoners shall be confined in separate establishments or separate parts of a prison in such manner as to prevent, as strictly as practicable, their seeing or conversing or holding any intercourse with each other.

2. In every prison in which female prisoners are imprisoned there shall be a woman member who shall have the care and the superintendence of the female prisoners and who shall be responsible for their discipline.

Article 23

Separation of classes of prisoners

With a view to facilitating their training and minimising the danger of contamination the following classes of prisoners of each sex shall, as strictly as the prison accommodation renders it practicable, be separated from one another, namely:

- (a) remand prisoners and prisoners awaiting trial from convicted criminal prisoners;
- (b) juvenile prisoners from young prisoners and adults;
- (c) first offenders from recidivists and habitual offenders;
- (d) such other classes of prisoners as the Commandant may direct from time to time.

Article 24

Progressive stage system

All convicted criminal prisoners shall, where possible, serve their sentences in accordance with the progressive stage system to be prescribed by Regulations.

Chapter 2 — Labour of Prisoners

Article 25

Labour of Prisoners

All convicted criminal prisoners shall, unless medically unfit, be required to work within or without the precincts of any prison in any part of the Republic and in any employment assigned by the Commanding Officer:

Provided that:

- (a) female prisoners shall be employed within the precincts of the prison only on such labour as is compatible with the nature of their sex;
- (b) juvenile prisoners shall be employed only on such labour as is considered of educational or rehabilitative nature;
- (c) prisoners other than convicted criminal prisoners shall be required to keep their cells, precincts of cells, furniture, clothing and utensils clean. Other employment for which they are suitably qualified may be given to them at their own request.

Article 26

Remuneration to prisoners for work done

Convicted criminal prisoners serving sentences of imprisonment in establishments where facilities for work may be available shall be paid remuneration for work done in accordance with Regulations.

Chapter 4 — Maintenance of Prisoners

Article 27

Food of prisoners

1. Every prisoners shall be entitled to a sufficient quantity of plain wholesome food in accordance with the dietary scale as may be prescribed by Regulations:

Provided that a prisoner may be permitted to receive food from private sources at proper hours subject to examination and to such other conditions as the Commandant may direct.

2. In appropriate cases due regard shall be had to the prisoner's former mode and standard of life and especially to the type of diet to which he is accustomed.

Article 28

Clothing of prisoners

1. Every convicted criminal prisoner shall be supplied with and shall wear such prison clothing or badges as may be prescribed by Regulations. Additional or alternative clothing may be supplied on the recommendation of the medical officer or by order of the Commanding Officer on cause being shown.

2. If a prisoner other than a convicted criminal prisoner does not provide himself with clothing or if such clothing is, in the opinion of the Commanding Officer, unsatisfactory, such prisoner shall be provided with the prison clothing.

Article 29

Bedding of prisoners

1. Every prisoner shall be supplied with bedding as prescribed by Regulations.

2. Additional or alternative bedding may be supplied on the recommendation of the medical officer.

Chapter 5 — Health of Prisoners

Article 30

Prison infirmaries

As far as possible, there shall be provided an infirmary or proper place for the medical care of sick prisoners in every prison and other penal institution.

Article 31

Medical officer

1. As far as possible, there shall be provided a medical officer for every prison and other penal institution who shall be responsible for the health and medical care of all prisoners and inmates therein, otherwise, the nearest medical officer to that prison area shall pay care regular visits and be responsible for the health and medical of all prisoners.

2. The duties and responsibilities of the medical officer shall be prescribed by Regulations.

Chapter 6 — Education and Social Relations of Prisoners

Article 32

Education of prisoners

1. The Commanding Officer shall take all steps that he considers practicable to arrange educational classes for prisoners and shall permit them in their leisure time to study and to practise handicrafts. Special attention shall be paid to the educational in a trade of those prisoners who are likely to find difficulty in earning a living on release.

2. The Secretary may appoint Sheikhs and orientation officer for the religious instruction of prisoners and for the holding of religious services. They may receive such remuneration or reimbursement for their expenses as may be prescribed by Regulations.

3. The Commanding Officer may arrange, where practicable, for lectures, concerts, shows, etc., for prisoners to take place outside the hours of employment.

4. Wherever possible, facilities shall be provided for the physical training, games and recreation, particularly in the case of young prisoners and long term prisoners.

5. Wherever possible, there shall be a library in each prison and prisoners shall be permitted to draw books from the library in accordance with such directions as the Commandant may give from time to time.

Article 33

Family relationship of prisoners

1. Special attention shall be paid by the Commanding Officer to the maintenance of such relations between a prisoner and his family as are considered by the Commanding Officer to be desirable in the best interests of both the prisoner and his family.

2. Every prisoner shall be encouraged and assisted, as far as is practicable and desirable, to maintain or establish such relations with persons or agencies outside the prison as any promote the best interests of his family or his special rehabilitation.

Article 34

Release on parole

1. A prisoner serving a sentence of imprisonment for a period of 5 years or more may, on the recommendation of the Commanding Officer, be allowed by the Commandant within 3 months of the date he is due for release on conditions and for reasons approved by the Commandant, to be temporarily absent from prison on parole for a stated length of time which shall not exceed 21 days.

2. The Commandant or the Commanding Officer may at any time recall a prisoner released on parole.

3. Any prisoner who fails to return to prison on the completion of the period of his parole or when informed that he has been recalled under the provisions of the preceding paragraph shall be guilty of an offence and may be arrested without warrant and shall be liable on conviction to the same punishment as if he had escaped from prison.

4. Any prisoner released on parole who contravenes the conditions imposed upon him shall be guilty of an offence and shall on conviction be liable to imprisonment for a period not exceeding 6 months.

5. Any prisoner temporarily released on parole if committed any crime shall be convicted according to laid down regulations and laws.

Article 35

Visits and letters

Visits to and communication with prisoners may be allowed as prescribed by Regulations.

Article 36

Petitions and complaints

1. Every prisoner shall have the right to petition the higher authority but in exercising that right shall address the petition through the Commandant.

2. A prisoner may make complaints to such authorities in such manner as may be prescribed by Regulations.

Chapter 7 — Prisoners under Sentence of Death

Article 37

Supervision etc. of prisoners under sentence of death

Notwithstanding the provisions of this or any other law, a prisoner under sentence of death:

- (a) shall be confined apart from other prisoners and shall be under constant supervision by day and night;
- (b) shall not be subject to employment;
- (c) may be allowed special facilities to correspond with relatives, friends and legal advisers;
- (d) may be permitted to see religious elements in accordance to his faith wherever practicable.

Article 38

Access to prisoners under sentences of death

1. No person other than members, the medical officer and judicial authorities in the course of their duty, shall have access to any prisoner under sentence of death without a written order from the competent authority.

2. Notwithstanding the provisions of this or any other law, visits to a prisoner under sentence of death by any person for any purpose shall take place in the presence and hearing of at least 2 members, one of whom shall be of or above the rank of N.C.O.

3. For the purposes of this and the preceding Article, a prisoner under sentence of death shall include an appellant prisoner under sentence of death.

Chapter 8 — Removal of certain Prisoners

Article 39

Removal of sick prisoners to hospital

1. In case of serious illness of a prisoner confined in a prison in which there is no suitable accommodation for such prisoners, the Commanding Officer may, on the advice of the medical officer, make an order for his removal to a Government hospital. In cases of emergency such removal may be ordered by the Commanding Officer without the advice of the medical officer.

2. Any prisoner who has been removed to a hospital under the provisions of this Article shall be deemed to be under detention in the prison from which he was so removed.

3. Whenever the medical officer in charge of such hospital considers that the health of a prisoner removed to hospital under the provisions of this Article no longer requires his detention therein, he shall notify the Commanding Officer who shall notify the Commanding Officer who shall thereupon cause such prisoner to be brought to the prison if he is still liable to be confined therein.

4. All precaution shall be taken by the Commanding Officer to prevent the escape of any prisoner who may at any time be under treatment therein, and it shall be lawful for such officers and employees to take such measures for preventing the escape of any such prisoner as shall be necessary.

5. Where in any case from the gravity of the offence for which any prisoner may be in custody or for any other reason the Commanding Officer considers it desirable to take special measures for the security of such prisoner while under treatment in hospital, it shall be lawful for him to give such prisoner into the charge of members of the Custodial Corps not being less than two in number,

one of whom shall always be with such prisoner day and night and such members shall be vested with full power and authority to do all things necessary to prevent such prisoner from escaping and shall be answerable for his safe custody until such time as he is handed over to the Commanding Officer on his discharge from hospital or until such time as his sentence expires, whichever may first occur.

Article 40

Removal of leper prisoner to leper settlements

1. Where a prisoner confined in a prison appears to the Commandant on the certificate of a medical officer to be a leper, the Commandant may, subject to the provisions of the succeeding paragraph, by order in writing, direct his removal to any leper settlement, there to be kept and treated until cured of his leprosy or until such time as he ceases to be liable to confinement in prison, whichever time is the earlier.

2. No order shall be made by the Commandant under the preceding paragraph unless and until he has received notification in writing that the person in charge of the leper settlement to which he wishes to remove the leper prisoner is able and willing to receive such prisoner.

3. So long as any prisoner who has been removed to any such settlement under the provisions of this Article shall remain therein and remain liable to confinement in prison, the person in charge of such settlement shall from time to time transmit to the Commanding Officer of the prison from which prisoner was received a certificate signed by him that it is in his opinion necessary that the prisoner should remain in such settlement.

4. When in the opinion of the person in charge of the leper settlement it is no longer necessary that any prisoner who has been removed to such settlement should remain therein and if such prisoner is still liable to confinement in prison, the person in charge of the settlement shall transmit to the Commanding Officer of the prison from which the prisoner was removed a certificate stating that such necessity has ceased and thereupon the Commanding Officer shall forthwith cause such prisoner to be brought back to the prison if he is still liable to be confined therein.

5. Every reasonable precaution shall be taken by the person in charge of the leper settlement and the other persons employed therein to prevent the escape of any prisoner who may at any time be under treatment therein, and it shall be lawful for such persons to take such measures for the preventing of the escape of any such prisoner as shall be necessary:

Provided that nothing shall be done under the authority of this Article which, in the opinion of the person in charge of such settlement, is likely to be prejudicial to the health of such a prisoner.

6. For the purpose of this Article, «leper» means a person suffering from active leprosy.

Article 41

Removal of prisoners of unsound mind

1. Whenever the medical officer or the Commanding Officer is of the opinion that any prisoner is of unsound mind he shall take all necessary action to procure his adjudgement as such under the relevant law. On adjudgement of such prisoner as a person of unsound mind he shall be removed as soon as convenient from the prison and confined in a mental hospital.

2. Whenever any prisoner removed to a mental hospital is entitled to be discharged in accordance with the provisions of the relevant law, the officer in charge of such mental hospital shall notify the Commanding Officer of the prison from which the prisoner was removed and the prisoner shall be delivered into his custody if still liable to be confined in prison, and if not so liable, be released. The period during which the prisoner has been detained in such mental hospital shall be reckoned as part of his term of imprisonment.

Article 42

*Notification to judicial authorities in case
of removal of certain prisoners*

The Commanding Officer shall, without delay, notify the judicial authority concerned of the removal under the provisions of this Chapter of any prisoner awaiting trial or the hearing of any appeal.

Article 43

*Members, etc. not liable for escape
of prisoners in hospital, etc.*

If any prisoner escapes during such time as he is in any leper settlement or mental hospital, no member shall be held answerable therefor, unless such prisoner shall have been in the personal custody of such member and no medical officer, person in charge of a leper settlement or other person shall be held answerable therefor unless it can be shown that he has helped such prisoner to escape or has wilfully neglected to take reasonable precautions to prevent his escape.

Chapter 9 — Use of Force and Weapon against Prisoners

Article 44

Use of force weapons against prisoners

1. A member may use such force against a prisoner as is reasonably necessary in order to make him obey lawful order he refused to obey or in order to maintain discipline.

2. A member may use weapons against any prisoner escaping or attempting to escape:

Provided that:

- (a) resort shall not be had to the use of any weapon unless the member has reasonable ground to believe that he cannot otherwise prevent the escape; and
- (b) asfigeviolehoel not be used against a prisoner unless the member has first given a warning to the prisoner that he is about to fire upon him and such warning goes unheeded.

3. A member may use weapons against any prisoner:

- (a) engaged in any combined breaking out or in any attempt to force or break open the outside door or gate or enclosure wall of the prison, and may continue to use such weapons so long as such combined breaking out is actually being carried out;
- (b) using violence to any member or other person if such member has reasonable ground to believe that the member or other person is in danger of life or limb, or any other grievous harm,
- (c) engaged with others in riotous or threatening behaviour and refused to desist when called upon.

4. Notwithstanding the provisions of paragraphs 2. and 3 of this Article, no member shall use any weapon against a prisoner in the presence of his superior in rank, except under the orders of such superior in rank.

5. The use of any weapons under this Article shall, as far as possible, be to disable and not to kill.

6. Whenever a weapon has been used resulting in a serious injury or a firearm has been used, the Commanding Officer shall, without delay, investigate the cause and circumstances of such use of the weapon or firearm and submit his findings to the Commandant and the competent judicial body.

Chapter 10 — Death of Prisoners

Article 45

Death of prisoners

On the death of a prisoner, the Commanding Officer shall, without delay notify:

- (a) the medical officer who shall certify the cause of death;
- (b) the competent judicial authority for the purpose of holding any inquiry into the cause of death under the provisions of any relevant law;
- (c) the next of kin, where possible.

PAR V.

DISCIPLINARY AND PENAL PROVISIONS.

Article 46

Disciplinary proceedings

No prisoner shall be subjected to disciplinary proceedings except in accordance with the provisions of this Part.

Article 47

Minor prison offences

1. Any prisoner who commits any of the following acts shall be guilty of a minor prison offence:

- (1) talking during working hours or talking loudly, laughing or singing at any time after having been ordered by a member to desist;
- (2) quarreling with any other prisoner;
- (3) secreting any article whatsoever;
- (4) showing disrespect to any member or other employee of the prison or an official visitor;
- (5) assaulting or taking part in any attack on any other prisoner;
- (6) answering untruthfully any question put to him by a member or other employee of the prison or any official visitor;
- (7) holding any communication in writing, by word of mouth or otherwise with any person in contravention of this Law, Regulations, Standing Orders and any lawful orders or directions;
- (8) omitting to assist in the maintenance of discipline by not reporting any prison offence, or failing to give assistance to a member when called upon to do so;
- (9) doing any act or using any language calculated to wound or offend the feelings of any other prisoner;
- (10) doing any act calculated to create unnecessary alarm in the mind of any prisoner or any member or other employee of the prison;
- (11) leaving without permission of a member the party to which he is attached, or the part of the prison in which he is confined;
- (12) leaving without permission of a member the ward, yard, place in file, seat or berth assigned to him;

- (13) loitering about the yards or lingering in the wards when these are open;
- (14) omitting or refusing to march in file when moving about the prison or proceeding to or returning from work;
- (15) visiting the latrines without permission of a member or remaining there longer than is necessary;
- (16) refusing to eat the food prescribed by the prison dietary scale;
- (17) eating or appropriating or having in his possession any food not assigned to him or taking from or adding to the portions assigned to other prisoners;
- (18) removing without permission of a member food from the kitchen or from the place where meals are served, or disobeying any order as to the issue and distribution of food and drink;
- (19) wilfully destroying food or throwing it away without order;
- (20) giving, bartering or selling any portion of his food or any liquor or tobacco which he may be allowed to receive to any other prisoner or person;
- (21) Introducing into food or drink anything likely to render it unpalatable or unwholesome;
- (22) omitting or refusing to wear the clothing given to him, or exchanging any portion of it for the clothing of other prisoners, or losing, discarding, damaging or altering any part of it;
- (23) removing, defacing or altering any distinctive number, mark or badge, attached to, or worn on his clothing or person of any other prisoner;
- (24) omitting or refusing to keep himself clean or disobeying any other regulating the cutting of hair;
- (25) omitting or refusing to keep clothing, blankets, bedding or utensils clean or disobeying any order as to the arrangement or disposition of such articles;
- (26) tampering in any way with prison locks, lamps or lights or other property with which he has no concern;
- (27) taking the prison clothing or any part of the prison kit of any other prisoner;
- (28) committing a nuisance in any part of the prison;
- (29) spitting on, or otherwise soiling, any floor, door, wall or other part of the prison building or any article in the prison;
- (30) wilfully defouling the wells, latrines, washing or bathing place;

- (31) damaging the trees within the enclosure of the prison;
- (32) omitting or refusing to take care of all prison property entrusted to him;
- (33) omitting or refusing to take reasonable care of, or damaging or misappropriating, the materials entrusted to him for work;
- (34) omitting to report at once any loss, breakage or damage which he may have caused to prison property or implements;
- (35) manufacturing any article without the knowledge or permission of the Commanding Officer;
- (36) performing any portion of the task allotted to another prisoner, or obtaining the assistance of another prisoner in the performance of his own task;
- (37) appropriating any portion of the task performed by another prisoner;
- (38) mixing or adding foreign substance to the materials issued for work;
- (39) cursing or swearing or using indecent, violent, threatening or insulting language;
- (40) causing or omitting to assist in suppressing violence or insubordination of any kind;
- (41) immoral, disorderly or indecent behaviour;
- (42) omitting or refusing to help any member in case of an attempted escape or of an attack upon such member or another prisoner;
- (43) disobeying any lawful order of a member or other employee of the prison;
- (44) idling or refusing to work or showing negligence in the performance of his allotted task;
- (45) defacing or damaging the walls, furniture or other property of the prison;
- (46) malingering or feigning sickness;
- (47) refusing or avoiding to undergo medical treatment;
- (48) having in his possession any prohibited article or any food, money, clothing, provisions, liquor, tobacco, letter, paper, book, drug or any other article which he has not specifically been authorised to have in his possession;
- (49) any other act or omission to the prejudice of good order or discipline;
- (50) attempting to commit or aiding or abetting the commission of any of the foregoing offences.

Article 48

Aggravated prison offences

Any prisoner who commits any of the following acts shall be guilty of an aggravated prison offence:

- (1) mutiny or incitement to mutiny;
- (2) escape or attempt to escape;
- (3) taking part in an assault or attack on a member;
- (4) aggravated or repeated assault on another prisoner;
- (5) wilful destruction of prison property;
- (6) wilfully causing himself any illness, injury or disability;
- (7) wilfully making a false or groundless accusation or complaint against a member or other employee of the prison;
- (8) repetition of a minor prison offence, after having been twice punished for the same minor offence;
- (9) any act of gross misconduct or insubordination;
- (10) using grossly abusive or offensive language to a member or other employee of the prison;
- (11) when undergoing, or about to undergo, punishment, wilfully making a disturbance tending to interrupt the order of the prison;
- (12) attempting to commit or aiding or abetting the commission of any of the foregoing offences.

Article 49

Inquiry into prison offences

1. The Commanding Officer may order any prisoner charged with a prison offence to be kept apart from other prisoners.

2. Every prisoner accused of a prison offence shall be informed of the offence with which he is charged and shall be entitled to defend himself by:

- (a) hearing and questioning any witnesses giving evidence against him;
- (b) making a statement himself;
- (c) calling any witness whom he thinks necessary and whom the officer trying the charge is satisfied will materially assist in determining whether or not the prisoner is guilty of the offence with which he is charged.

3. Every charge against a prisoner shall be heard by the Commanding Officer without delay.

Article 50

Punishment for minor prison offences

The Commanding Officer may, after due inquiry, punish a prisoner found guilty of a minor prison offence by ordering him to undergo one or more of the following punishments:

- (a) penal diet with or without cellular confinement not exceeding 4 days;
- (b) forfeiture of remission not exceeding 14 days;
- (c) deprivation of privileges;
- (d) recovering from any sums deposited by the prisoner the cost of any article of prison property negligently lost or wilfully damaged by the prisoner.

Article 51

Punishment for aggravated prison offences

The Commanding Officer or any officer authorised by the Commandant may, after due inquiry, punish a prisoner found guilty of an aggravated prison offence by ordering him to undergo one or more of the following punishments:

- (a) cellular confinement with or without penal diet for a period not exceeding 21 days and loss of remission for such period;
- (b) forfeiture of remission not exceeding 28 days;
- (c) deprivation of privileges;
- (d) recovering from any sums deposited by the prisoner the cost of any article of prison property negligently lost or wilfully damaged by the prisoner.

Article 52

Transfer of cases to the Commandant

The Commanding Officer may, in exceptional circumstances, transfer the case of a prisoner charged with an aggravated prison offence to the Commandant who may either dispose of the case himself or authorise another officer to deal with it. In such a case, the Commandant or the authorised officer may, after due inquiry, punish the prisoner found guilty of the aggravated prison offence by ordering him to undergo one more of the following punishment:

- (a) cellular confinement with or without penal diet for a period not exceeding 30 days and loss of remission for such period;
- (b) forfeiture of remission not exceeding 90 days;
- (c) deprivation of privileges;
- (d) recovering from any sums deposited by the prisoner the cost of any article of prison property negligently lost or wilfully damaged by the prisoner.

Article 53

Powers of the Commandant with regard to punishments

The Commandant may increase, add to, vary or remit any punishment imposed by the Commanding Officer or the authorised officer under Articles 50, 51 and 52:

Provided that nothing in this Article shall be construed as empowering the award of any greater punishment than might have been awarded by the officer who inquired into the offence:

Provided further that no punishment shall be increased without giving an opportunity to the prisoner of being heard in his defence.

Article 54

Punishment of penal diet

1. No prisoner shall be subjected to penal diet unless certified as medically fit to undergo it by a medical officer.

2. Punishment of penal diet shall not be combined with labour. It shall not exceed a continuous period of 5 days and an interval of the same period shall elapse before a further period of such penal diet.

Article 55

Punishment for aggravated prison offences by judicial authority

The Commandant or the Commanding Officer may direct that a prisoner charged with an aggravated prison offence be tried by a competent judicial authority. On being found guilty such a prisoner shall, unless the act constitutes a more serious offence, be liable to be punished with imprisonment for a period not exceeding 6 months to run consecutively with any sentence then being served by him:

Provided that no proceedings shall be taken against any prisoner under this Article in respect of any offence for which he has already been punished under this law.

Article 56

Indemnity of members

No action, civil or criminal, shall lie in any Court against any member for anything done (according to law) in the execution of duty under this law, Regulations or Standing Orders.

PART VI.

REMISSION OF IMPRISONMENT

Article 57

Remission of imprisonment

1. Convicted criminal prisoners sentenced to imprisonment shall, by industry and good conduct, earn a remission of one-fourth of their sentence. Such remission can be considered only after prisoner has served at least $2/3$ of term.

2. In the case of prisoners serving sentences of imprisonment on the date of the commencement of this law, the period already served shall be counted towards such remission but in no case the right to release shall accrue before the commencement of this law.

3. On the recommendation of the Commandant and on the proposal of the Secretary, the President of the Supreme Revolutionary Council may grant to a prisoner further remission on special grounds.

4. For the purpose of giving effect to the provisions of this Article, each prisoner on admission shall be credited with the full amount of remission to which he would be entitled at the end of his sentence if he lost or forfeited no such remission.

5. A prisoner may lose remission as a result of its forfeiture as a punishment for a prison offence and shall not earn any remission in respect of any period:

- (a) spent in hospital through his own fault or while malingering;
- (b) while undergoing confinement as a punishment in a separate cell.

6. The Commandant shall have power to restore forfeited remission in whole or in part.

Article 58

Periodical submission of special report

The Commandant shall submit to the Secretary through the Attorney General a special report in the prescribed form on the general condition of every prisoner undergoing imprisonment for life or for a term exceeding 7 years, at the end of every 4 years of such imprisonment of such prisoner:

Provided that the Secretary may in any special case require that such report shall be submitted at more frequent intervals.

PART VII.

DISCHARGE AND ASSISTANCE TO PRISONERS

Article 59

*Responsibility of Commanding Officer
for discharge of prisoners*

1. The Commanding officer shall be responsible for the due discharge of all prisoners immediately upon their becoming entitled to release.

2. No Prisoner under treatment by the medical officer shall be discharged from prison except at his own request provided that in the opinion of the medical officer, such discharge can be effected without danger to the health of such prisoner or to the community.

3. All prisoners shall be discharged before noon on the date on which they are entitled to be released, but should that date fall on a Friday or any public holiday, they shall be released before noon on the preceding day.

4. Prisoners shall, if practicable, be discharged from a prison situated in the area to which they belong.

Article 60.

Assistance to discharged prisoners

1. Every long term prisoner shall be given an opportunity within 2 months prior to the date of his discharge to apply to a Prisoners' Aid Association, if any, for assistance.

2. In the case of a prisoner afflicted with infirmity of mind or body, it shall lie within the discretion of the commanding officer to afford on discharge such reasonable assistance as will enable that prisoner to reach his home in safety.

3. In default of suitable accommodating being provided for discharged prisoners who have to wait for facilities to enable them to return to their homes, it shall lie within the discretion of the Commanding officer to provide accommodation within the precincts of the prison but outside the staff quarters.

4. A prisoner discharged from a prison situated in a district in which he does not normally reside may, at his request, be returned at Government expense to his own district. Such prisoner shall be paid a subsistence allowance calculated at the rate of Sh. So. 2/- per night upto maximum of 4 nights travelling to his district.

5. With a view to preventing the repetition of crime, discharged long term prisoners who did not qualify for remuneration benefits on the grounds of ill-health or are without friends or means of subsistence shall, in the discretion of the Commanding officer, be paid after full inquiry has been made, a gratuity not exceeding Sh. So. 40/- should the Commanding Officer consider this sum insufficient he may, with the authority in writing from the Commandant, pay a higher gratuity not exceeding Sh. So. 80/-.

PART VIII.

CONDNDTIONAL RELEASE ON LICENCE

Article 61

Conditional release on licence

A Prisoner serving sentence of 10 years or more shall, on completion of at least three-fourth of his sentence, become eligible to be considered for conditional release on licence, excluding homicides, crimes against the State and public administration.

PART IX.

PRISON VISITORS

Article 62

Appointment and powers of prison visitors

1. The Secretary may, from time to time, appoint, by decree fit and proper persons to be prison visitors for any prison.

2. Any prison visitor may, in respect of any prison of which he is appointed a visitor:

- (a) visit every part of the prison and see every prisoner in confinement;
- (b) inspect and test the quality of prisoners' food;
- (c) bring to the notice of the Commanding Officer any Personal affairs if a prisoner which he considers should be attended to.

3. On the completion of the visit, every prison visitor shall enter in the Prison Visitors Book remarks, suggestions or recommendations as he may deem fit to make.

PART X.

OFFENCES IN RELATION TO PRISON AND PRISONERS

Article 63

Trafficking.

Any person who, without lawful authority:

- (a) Conveys, supplies or causes to be supplied or conveyed to any prisoner, whether within or without a prison, or hides or places for his use any letter or document or any intoxicating liquor, drug, opiate, money, clothing, provisions or any other article whatsoever;
- (b) brings or attempts to bring by any means whatever into any prison, or places or attempts to place where prisoners work any letter or document, intoxicating liquor, tobacco, drug, opiate, money, clothing, or provisions;
- (c) takes or attempts to take out of any prison or conveys from any prison any letter or document; or
- (d) communicates with any prisoner,

shall be guilty of an offence and on conviction shall be liable to imprisonment for a period not exceeding one year to a fine not exceeding Sh. So. 1000/- or to both such imprisonment and fine if this act does not constitute a crime or crimes governed by other laws.

Article 64

Prohibited articles

1. Any person who, without lawful authority, brings or introduces in any manner into a prison a prohibited article or who without lawful authority takes out or removes from a prison a prohibited article shall be guilty of an offence and shall be liable on conviction to imprisonment for a period not exceeding 6 months or to a fine not exceeding Sh. So. 1000/- or to both such imprisonment and fine, unless act does not constitute crime provided by other laws.

2. For the purpose of the Article, a prohibited article shall be an article contained in a list affixed in a conspicuous place outside every prison which shall be signed by the Commandant or by the Commanding Officer on his behalf and which shall contain a list of articles which the commandant has decided shall be prohibited. The list shall be written in English, Italian and Arabic.

Article 65

Seizure of prohibited article, etc.

Whether or not any criminal or disciplinary proceedings are commenced against any person, any member may seize any article found to be unlawfully in a prison and the Commanding Officer may order its confiscation and forfeiture.

Article 66

Trespassing

1. Any person who, without lawful authority, enters or remain within the boundaries of a prison or any place where prisoners are working shall be guilty of an offence and if he refuses to leave when requested to do so may be arrested by a member of the armed forces.

2. Any person convicted of an offence under the preceding paragraph shall be liable to a fine, not exceeding Sh. So. 500/- or to imprisonment for a period not exceeding 3 months or to both such fine and imprisonment.

Article 67

Unlawful possession of Prison articles

Any person who is found in possession of any article whatsoever which has been supplied to any member for use on duty, or of other prison property and who fails to account satisfactorily for the possession thereof, or who without due authority purchases or receives any such article or property from any member or who aids or abets any member to sell or dispose of any such article or property shall be guilty of an offence and shall be liable on conviction to a fine not exceeding Sh. So. 1000/- or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

Article 68

Incitement to mutiny and sedition

Any person who, by any means, directly or indirectly, instigates, promotes, commands, counsels or solicits any mutiny, sedition or disobedience to any lawful order of a member by prisoners shall be guilty of an offence and, where the act does not constitute a more serious offence, shall be liable on conviction to imprisonment for a term not exceeding 3 years.

Article 69

General penalty

Any person who violates the provisions of this law or Regulations shall be guilty of an offence and, if no penalty is specifically provided therefore, shall be liable on conviction to a fine not exceeding Sh. So. 1000/- or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

Article 70

Power to prosecute under other laws not affected

Nothing in this law shall exempt any prisoner or other person from being prosecuted under any other law for the time being in force for any offence made punishable by this law, or from being liable under any other law to any other or higher penalty or punishment than is provided for such offence by this law.

Provided that no person shall be tried twice for the same offence.

PART XI.

FINAL PROVISIONS

Article 71

Regulations

The President of the Supreme Revolutionary Council may, on the proposal of the Secretary, by decree, make Regulations for the proper implementation of this law.

Article 72

Standing Orders

Subject to the provisions of this law and Regulations, the Commandant may make standing Orders relating to prisons and prisoners.

Article 73

Repeal and Saving

Without prejudice to any rights acquired or liability incurred, the following laws and provisions are hereby repealed:

- (a) all provisions of the Prisons Ordinance No. 11 of 1952;
- (b) Ordinamento Carcerario, 1957;
- (c) any other law or provisions contrary to, or inconsistent with, the provisions of this law.

Article 74

Coming into force

1. This law shall be included in the Official compilation of the laws of the Somali Democratic Republic and published in the Official Bulletin.

2. This law shall come into force on the day following the date of its publication in the Official Bulletin.

3. All persons shall be obliged to observe it and cause others to observe it as a law of the Republic.

Mogadiscio, li 30 December, 1971.

Jaalle Major-Gen. Mohamed Siad Barre
PRESIDENT
of the Supreme Revolutionary Council